IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.496 OF 2000

Shri Dnyadeo Vithal Chandkar(deceased)
Through legal heirs.
Smt.Venubai D. Chandkar & Anr. ..Appellants.

V/s.

Shri Genba A.Kalokhe(deceased)
through LRs. & Ors. ..Respondents.

Mr.Rajesh More for appellants.

CORAM: A.M.KHANWILKAR,J

DATE : JUNE 6, 2006.

P.C. :

1. Heard. Perused noting made by the office dated 10/4/2006.

2. I find substance in the grievance made by the counsel for the appellant that the office has wrongly treated the matter as dismissed for non-prosecution. This is so because, the appellant has substantially complied with the conditional order dated January 9, 2006. Concerned respondents have been served by the office as well as by the appellant by private notice and affidavit of service has already been filed. Respondent No.2(a-1) as mentioned in the affidavit of service is unserved as the notice sent to him has returned unserved with remark "left addressee, not

known, returned". As deceased respondent No.2 is represented by other representatives and legal heirs who are already on record and have been duly served, the appeal will have to be proceeded. Accordingly, the appeal is heard on merits.